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6 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,)
8 Plaintiff,) NO. CR-09-089-RHW
9 v.) ORDER REGARDING DISCOVERY
10 TIMOTHY A. SHELLY,) AND PRETRIAL MOTIONS
11 Defendant.)
12

13 OPEN FILE DISCOVERY

14 In voluntary discovery cases, the United States, within three
15 (3) business days of the date of arraignment, shall deliver to the
16 Defendant all investigative material in its file, required by the
17 Federal Rules of Criminal Procedure, specifically including, but not
18 limited to, police and incident reports and Defendant's criminal
19 record. The United States shall continue to furnish discovery as
20 received and complete the process within **ten (10) days** of the date
21 of this Order, or within **ten (10) days** from receipt by Plaintiff of
22 the discovered material, if later received. These directives assume
23 a defense request for discovery pursuant to FED. R. CRIM. P. 16, and
24 impose a reciprocal duty to provide discovery. If a Defendant does
25 not wish to invoke the rule, the Defendant shall file a notice,
26 prior to accepting discovery from the government.

27 NOTICE OF NON-DISCOVERY

28 If the United States, for any reason, is not going to

1 voluntarily provide all investigative material, it will serve and
2 file a notice to that effect within five (5) days of this Order. If
3 discovery received after the date of this Order is not going to be
4 voluntarily furnished, a notice to that effect shall be filed and
5 served within five (5) days of the United States' receipt of such
6 material. Absent the filing of such notice, all discovery shall be
7 promptly furnished consistent with the provisions of this Order.

8 **DEFENSE MOTIONS**

9 If the United States serves and files the five-day notice of
10 non-disclosure, Defendant shall file discovery motions within ten
11 (10) days thereafter. Except as earlier provided, and to prevent
12 manifest injustice, Defendant shall have thirty (30) days from
13 arraignment to file other motions.

14 **SCHEDULING MOTIONS**

15 Responses to motions shall be filed and served no later than
16 five (5) days, excluding weekends and holidays, from receipt of
17 motions. Replies, if any, shall be filed within five (5) days,
18 excluding weekends and holidays, of receipt of responses. Motions
19 shall be noted for hearing with or without oral argument, pursuant
20 to local rules. Unless shortened by the court, upon motion and good
21 cause shown, oral argument should be noted for the time of the
22 pretrial conference, provided this schedule permits all briefing to
23 occur within the time frame set forth in LR 7, Local Rules for the
24 Eastern District of Washington.

25 **NOTICE OF CONFLICT OF INTEREST**

26 The representation by one lawyer, or by different members of
27 one law firm, of two or more Defendants charged under the same
28 instrument or charged with factually related offenses will be

1 permitted only on a showing that no conflict does, or will likely
2 exist, or on a knowing waiver, executed in open court before a
3 federal district judge.

4 Counsel who plan to represent two or more Defendants charged
5 under the same instrument, or charged with factually related
6 offenses, shall immediately file a motion to secure prior approval
7 of such representation by the federal district judge to whom this
8 case is assigned.

9 In addition, counsel shall promptly investigate whether other
10 conflicts exist that may prevent representation, and bring any
11 potential conflicts to the attention of the court as soon as
12 possible.

13 **IT IS SO ORDERED.**

14 DATED August 20, 2009.

15 S/ CYNTHIA IMBROGNO
16 _____
UNITED STATES MAGISTRATE JUDGE
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